

**§ 381.505 What are the minimum elements required for a pilot program?**

(a) *Safety measures.* Before granting exemptions for a pilot program, the FMCSA will ensure that the safety measures in a pilot program are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved by complying with the regulations.

(b) *Pilot program plan.* Before initiating a pilot program, the FMCSA will ensure that there is a pilot program plan which includes the following elements:

(1) A scheduled duration of three years or less;

(2) A specific data collection and safety analysis plan that identifies a method of comparing the safety performance for motor carriers, CMVs, and drivers operating under the terms and conditions of the pilot program, with the safety performance of motor carriers, CMVs, and drivers that comply with the regulation;

(3) A reasonable number of participants necessary to yield statistically valid findings;

(4) A monitoring plan to ensure that participants comply with the terms and conditions of participation in the pilot program;

(5) Adequate safeguards to protect the health and safety of study participants and the general public; and

(6) A plan to inform the States and the public about the pilot program and to identify approved participants to enforcement personnel and the general public.

**§ 381.510 May the FMCSA end a pilot program before its scheduled completion date?**

The FMCSA will immediately terminate a pilot program if there is reason to believe the program is not achieving a level of safety that is at least equivalent to the level of safety that would be achieved by complying with the regulations.

**§ 381.515 May the FMCSA remove approved participants from a pilot program?**

The Administrator will immediately revoke participation in a pilot program of a motor carrier, CMV, or driver for

failure to comply with the terms and conditions of the pilot program, or if continued participation is inconsistent with the goals and objectives of the safety regulations.

**§ 381.520 What will the FMCSA do with the results from a pilot program?**

At the conclusion of each pilot program, the FMCSA will report to Congress the findings and conclusions of the program and any recommendations it considers appropriate, including suggested amendments to laws and regulations that would enhance motor carrier, CMV, and driver safety and improve compliance with the FMCSRs.

**Subpart F—Preemption of State Rules****§ 381.600 Do waivers, exemptions, and pilot programs preempt State laws and regulations?**

Yes. During the time period that a waiver, exemption, or pilot program authorized by this part is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with the waiver, exemption, or pilot program with respect to a person operating under the waiver or exemption or participating in the pilot program.

**PART 382—CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING****Subpart A—General****Sec.**

- 382.101 Purpose.
- 382.103 Applicability.
- 382.105 Testing procedures.
- 382.107 Definitions.
- 382.109 Preemption of State and local laws.
- 382.111 Other requirements imposed by employers.
- 382.113 Requirements for notice.
- 382.115 Starting date for testing programs.
- 382.117 Public interest exclusion.
- 382.119 Stand-down waiver provision.
- 382.121 Employee admission of alcohol and controlled substances use.

**Subpart B—Prohibitions**

- 382.201 Alcohol concentration.
- 382.205 On-duty use.
- 382.207 Pre-duty use.
- 382.209 Use following an accident.

## § 382.101

- 382.211 Refusal to submit to a required alcohol or controlled substances test.
- 382.213 Controlled substances use.
- 382.215 Controlled substances testing.

### Subpart C—Tests Required

- 382.301 Pre-employment testing.
- 382.303 Post-accident testing.
- 382.305 Random testing.
- 382.307 Reasonable suspicion testing.
- 382.309 Return-to-duty testing.
- 382.311 Follow-up testing.

### Subpart D—Handling of Test Results, Record Retention, and Confidentiality

- 382.401 Retention of records.
- 382.403 Reporting of results in a management information system.
- 382.405 Access to facilities and records.
- 382.407 Medical review officer notifications to the employer.
- 382.409 Medical review officer record retention for controlled substances.
- 382.411 Employer notifications.
- 382.413 Inquiries for alcohol and controlled substances information from previous employers.

### Subpart E—Consequences for Drivers Engaging in Substance Use-Related Conduct

- 382.501 Removal from safety-sensitive function.
- 382.503 Required evaluation and testing.
- 382.505 Other alcohol-related conduct.
- 382.507 Penalties.

### Subpart F—Alcohol Misuse and Controlled Substances Use Information, Training, and Referral

- 382.601 Employer obligation to promulgate a policy on the misuse of alcohol and use of controlled substances.
- 382.603 Training for supervisors.
- 382.605 Referral, evaluation, and treatment.

AUTHORITY: 49 U.S.C. 31133, 31136, 31301 *et seq.*, 31502; and 49 CFR 1.73.

SOURCE: 66 FR 43103, Aug. 17, 2001, unless otherwise noted.

## Subpart A—General

### § 382.101 Purpose.

The purpose of this part is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles.

## 49 CFR Ch. III (10–1–07 Edition)

### § 382.103 Applicability.

(a) This part applies to every person and to all employers of such persons who operate a commercial motor vehicle in commerce in any State, and is subject to:

(1) The commercial driver's license requirements of part 383 of this subchapter;

(2) The Licencia Federal de Conductor (Mexico) requirements; or

(3) The commercial drivers license requirements of the Canadian National Safety Code.

(b) An employer who employs himself/herself as a driver must comply with both the requirements in this part that apply to employers and the requirements in this part that apply to drivers. An employer who employs only himself/herself as a driver shall implement a random alcohol and controlled substances testing program of two or more covered employees in the random testing selection pool.

(c) The exceptions contained in § 390.3(f) of this subchapter do not apply to this part. The employers and drivers identified in § 390.3(f) of this subchapter must comply with the requirements of this part, unless otherwise specifically provided in paragraph (d) of this section.

(d) *Exceptions.* This part shall not apply to employers and their drivers:

(1) Required to comply with the alcohol and/or controlled substances testing requirements of part 655 of this title (Federal Transit Administration alcohol and controlled substances testing regulations); or

(2) Who a State must waive from the requirements of part 383 of this subchapter. These individuals include active duty military personnel; members of the reserves; and members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training and national guard military technicians (civilians who are required to wear military uniforms), and active duty U.S. Coast Guard personnel; or

(3) Who a State has, at its discretion, exempted from the requirements of part 383 of this subchapter. These individuals may be: